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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,132	11/21/2001	Giuseppe Baccioli	3816-15	1326

30024 7590 01/16/2004

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EXAMINER
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COTTINGHAM, JOHN R

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/989,132

Applicant(s)

BACCIOLI ET AL.

Examiner

John R. Cottingham

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,13,16,17,19,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 12,15,18,20-22,25 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 13, 16-17, 19, 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizelle et al. U.S. Patent 5,709,500. Mizelle et al. shows all of the claimed subject matter of a tube plate in Figures 1-14.

Regarding claim 11, a tube plate to hold a bundle of tubes, that tube plate comprising: a first perforated component (4 and 116) having a first facing edge thereof; a second perforated component (2 and 214) having a second facing edge thereof, the facing edges have mating complementary surfaces that enable the first and second perforated components to be joined so as to form a smooth interface therebetween; and a plurality of pin fasteners 18 extending through the complementary surfaces of the first and second perforated components.

Regarding claim 13, the first and second perforated components 4 and 2 are each semicircular in shape and joined to one another along a median defined by the first and second facing edges.

Regarding claim 16, the complementary surfaces include projection 158 along the first facing edge and a cavity (between 224) along the second facing edge.

Regarding claim 17, a tube plate for holding a plurality of tubes, the tube plate comprising first and second semicircular components (2 and 4, along with parts 116 and 214) joined together mechanically along a smooth interface defined by a pair of facing straight edges 116 and 214, respectively, of the first and second semi-circular components, each of the semi-circular components having a plurality of perforation for receiving individual one of the tubes. (Gaps between 126)

Regarding claim 19, the first and second semi-circular components are joined along the pair of facing straight edges by a plurality of pins 18.

Regarding claim 23, a tube plate for holding a plurality of tubes, the tube plate comprising first and second semi-circular components (2, 4, 116, and 214) joined together mechanically along a pair of facing straight edges (116 and 214), respectively, of the first and second semi-circular component provided with a projection 126 along one of the pair of facing straight edges and the second semi-circular component provided with a cavity along the other of the pair of facing straight edges, the projection received within the cavity so as to form a smooth connecting interface between the first and second semi-circular components.

Regarding claim 24, a plurality of pins 18 extend through the first and second semi-circular components including the projection, along the pair of facing straight edges.

***Allowable Subject Matter***

3. Claims 12, 14-15, 18, 20-22, and 25-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toulmin, Jr. U.S. Patent 2,858,582 shows a similar invention.


5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (703) 306-3439. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



John R. Cottingham  
Primary Examiner  
Art Unit 3679

jrc